IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.314 OF 2005
IN
SUMMARY SUIT NO.1276 OF 2004

Crompton Greaves Ltd. ....Plaintiff
V/s.
M/s.Shatakshi Engineering Industries Pvt.Ltd. & Anr. ....Defendants

Mr.H.Toor i/b M/s.V.Deshpande & Co. for the Plaintiff.
Ms.Hema Desai i/b Singhi d& Co. for Defendant No.2.

CORAM : S.J. VAZIFDAR, J.
DATED : 12TH DECEMBER, 2005.

P.C. :

1. The suit is filed to recover an amount of Rs.3,36,060/- from the Defendants. Pursuant to the purchase order placed by the Plaintiff on Defendant No.1, Defendant No.1 supplied certain goods to the Plaintiff, in respect thereof the Plaintiff had paid 50% of consideration in advance. Defendant No.2 is the Bank of Maharashtra. Defendant No.1 is a constituent of the Bank. Admittedly, it was agreed between the parties that the Plaintiff would pay the balance 50% of the consideration due and payable by Defendant No.1 to Defendant No.2.

2. By mistake, the Plaintiff instead of paying 50% of the consideration, paid the entire consideration to Defendant No.2. There was thus over

payment of 50%. It is this amount that the Plaintiff now seeks to recover. The Plaintiff is entitled to do so as against Defendant No.1 in view of a letter dated 30th July, 2003, addressed by Defendant No.1 to the Plaintiff. Defendant No.1 expressly stated that it was responsible for clearing the said dues. Defendant No.1 confirmed that Defendant No.2 had adjusted the entire amount towards its outstandings to the Bank. Defendant No.1 further stated that it was committed to repay the said amount within 90 days from the date of the letter. Thus based on this letter,the Plaintiff is entitled to maintain a Summary Suit.

3. In the circumstances, the Summons for Judgment is made absolute and the suit is decreed as against Defendant No.1 in the sum of Rs.3,36,060/- together with interest thereon at the rate of 12% p.a. from the date of filing of the suit till payment and/or realization and costs.

4. Defendant No.2 is granted unconditional leave to defend the suit. The suit is transferred to the list of commercial causes. Defendant No.2 to file its written statement within four weeks from today. Discovery and Inspection to be completed within six weeks thereafter. Summons for Judgment stands

disposed of accordingly.